

August 7, 2000

## **FACT SHEET**

### **DRAFT GUIDANCE ON DESIGNING FLEXIBLE AIR PERMITS**

#### **TODAY'S ACTION**

- ! EPA is releasing draft guidance on designing flexible permits for certain air pollution sources. Flexible permits can provide industry with operational flexibility without sacrificing environmental protection.
- ! The draft guidance, known as "White Paper Number 3," is part of the Agency's ongoing efforts to improve implementation of air permitting programs. It provides state and local permitting authorities information on how to design flexible permits for sources subject to the Operating Permits Program, also known as the title V permits program.
- ! Flexible permits would be most useful to sources that make frequent and quick operational changes, generally to meet changes in market demand. For example, the pharmaceutical industry and the computer industry might benefit from the permitting flexibility discussed in the guidance document.
- ! This draft guidance is not mandatory; however, it encourages state and local permitting authorities to use flexible permits where allowed by their regulations, and as resources and needs dictate. The guidance does not exempt sources from fully complying with requirements of the Clean Air Act or the Operating Permits Program.
- ! EPA will take public comment on this draft document before releasing the final guidance later this year. The Agency will simplify language in this document as it incorporates comments to prepare the final guidance.

#### **BACKGROUND**

- ! In 1990, Congress created the Title V Operating Permit Program to ensure better compliance with air quality regulations. The program, administered at the state and local level, consolidates all air pollution control requirements into a single, comprehensive "operating permit" that covers all aspects of an emissions source's year-to-year air pollution activities.
- ! Operating permits provide facility owners, state and local inspectors and the public with specific information about the air pollution regulations that apply to each facility and each facility's compliance. State and local agencies already have issued thousands of such permits nationwide. However, some industries, such as the pharmaceutical and computer industries, and state and local permitting authorities, have told EPA that existing approaches to title V permitting will prevent those industries from making the quick operational changes necessary

to meet fluctuations in market demand.

- ! Since 1994, EPA has participated in pilot permitting projects known as the “Pollution Prevention in Permitting program” or “P4”. These projects were designed to explore whether and how permits could provide industry with operational flexibility, without violating requirements of the Clean Air Act or of EPA’s operating permits regulations. EPA used what it learned in the P4 projects in drafting this guidance.

## **HOW FLEXIBLE PERMITS WORK**

- ! Although today’s draft guidance describes several approaches for providing more operational flexibility, EPA has focused primarily on “advance approval,” which is the most versatile and effective flexible permitting approach.
- ! After an advance approval flexible permit is issued, a facility may make the operational changes authorized in that permit without further review or approval.
- ! A flexible permit containing advance approvals typically would contain:
  - ▶ The defined category of changes approved;
  - ▶ Relevant requirements applying to the changes, including any authorizations for the changes required under other air programs;
  - ▶ Plant-wide emission caps that: ensure the facility complies with national outdoor air quality standards; define when sources would be subject to additional requirements; and set limits on the magnitude of the advance approval;
  - ▶ Requirements for sufficient monitoring, recordkeeping, and reporting;
  - ▶ Requirements to maintain a log of operational changes made under the advance approval;
  - ▶ Requirements to submit a notice to the permitting authority before the addition of a new emissions unit; and
  - ▶ Any other terms as needed to assure that the changes comply with all applicable requirements.

## **BENEFITS AND COSTS**

- ! Flexible permits can benefit everyone without sacrificing environmental protection. Among the benefits flexible permits are anticipated to provide are:
  - ▶ Improved knowledge of a facility’s emissions for the entire site and of its compliance status;
  - ▶ Improved public understanding of a facility’s activities over an extended period, (each proposed advance approval must describe the type and magnitude of the potential

emissions increases that can occur);

- ▶ A better perspective of the type and amount of planned growth at a facility, at a time when public comment can influence the direction of the proposed changes.
  - ▶ Increased environmental protection from the use of emission caps, which limit future emissions increases and, in some cases, reduce overall emissions.
  - ▶ Increased use of pollution prevention practices, which allow industry flexibility to adjust their processes as necessary to remain under an emissions cap.
- ! Up-front costs are likely to be higher for the design and implementation of many flexible permits than for traditional title V permits. State and local programs should take the necessary steps to assure that funding of their permitting program through permit fees remains adequate.

#### **FOR MORE INFORMATION**

- ! To download a copy of the draft guidance, go to the following Internet address:  
<http://www.epa.gov/ttn/oarpg/> .
- ! Send written comments on this draft guidance to Michael Trutna, Information Transfer and Program Integration Division, MD-12, U.S. EPA, Research Triangle Park, N.C. Comments are due 30 days after the notice regarding the availability of this guidance is published in the Federal Register.
- ! For more information about the draft guidance, call Michael Trutna of EPA's Office of Air Quality Planning and Standards at (919) 541-5345.